

AUG 30 2004

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

TARA SINGH,

Petitioner,

v.

JOHN ASHCROFT, Attorney General,

Respondent.

No. 03-71411

Agency No. A77-844-534

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted August 25, 2004**

San Francisco, California

Before: SCHROEDER, Chief Judge, GOODWIN and TASHIMA, Circuit Judges.

Tara Singh, a native and citizen of India, petitions for review of the decision of the Board of Immigration Appeals, summarily affirming an immigration judge's ("IJ") denial of his application for asylum and withholding of removal. We have

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

jurisdiction pursuant to 8 U.S.C. § 1252. We review an adverse credibility finding for substantial evidence, *Lata v. INS*, 204 F.3d 1241, 1245 (9th Cir. 2000), and we reverse only if the evidence compels a contrary conclusion, *INS v. Elias-Zacarias*, 502 U.S. 478, 483-84 (1992). We deny the petition for review.

Substantial evidence supports the IJ's adverse credibility determination, based on Singh's demeanor and inconsistencies that went to the heart of his claim. *See Singh-Kaur v. INS*, 183 F.3d 1147, 1151-52 (9th Cir. 1999). The record does not compel the opposite result. *See Elias-Zacarias*, 502 U.S. at 483-84.

Because Singh did not testify credibly, he failed to establish eligibility for asylum. *See Mejia-Paiz v. INS*, 111 F.3d 720, 723 (9th Cir. 1997). It follows that he also failed to establish eligibility for withholding of removal. *See Alvarez-Santos v. INS*, 332 F.3d 1245, 1255 (9th Cir. 2003).

Substantial evidence also supports the IJ's conclusion that Singh is not entitled to relief under the Convention Against Torture because he did not demonstrate that it is more likely than not that he would be tortured upon return to India. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156-57 (9th Cir. 2003).

PETITION FOR REVIEW DENIED.